IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.370 OF 2004

Anna Ishwara Shinde .. .. Appellant

Versus

Jaysingpur Municipal Council .. Respondent

Mr.G.M.Savagave, for appellant

CORAM : P.V.KAKADE, J.

DATE : 8TH JUNE, 2005.

P.C.

1. The appellant has preferred this appeal against the judgment and order passed by 4th Addl. District Judge, Kolhapur on 13th October, 2003 dismissing the appeal and confirming the order passed by Joint Civil Judge, Junior Division, Jaysingpur dismissing his suit.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The appellant-plaintiff had filed the suit for specific performance against the Municipal Council on the allegation that particular piece of land belonging to the State Government was allotted to him under the contract and therefore, the defendant-Municipal Council should be directed to sale the said plot to him. The learned trial judge adjudicated the dispute and came to the conclusion that there was no privity of contract between the parties and therefore, no specific decree for specific performance is granted on the basis of resolution passed by the Municipal Council. The appeal was preferred in the District Court. The learned First Appellate Court Judge endorsed to the findings recorded by the lower court and dismissed the appeal. Hence the present appeal.

4. At the outset it may be noted that there is no substantial question of law involved in this appeal. Evidently the land in question belongs to the State Government. No doubt that the defendant-Municipal Council passed the resolution in order to distribute the landed property including the suit property to the homeless people and name of the plaintiff was listed

against the suit property to be allotted provided the State Government sanction was given to that effect. However, it is evident that the State Government did not accept the proposal of the Municipal Council and as such the entire scheme was abandoned. In view of this factual matrix the findings recorded by both the courts below to the effect that there is no privity of contract between the parties and no right existence in favour of the plaintiff to seek specific performance cannot be faulted with and hence I hold that both the courts below have correctly recorded the concurrent findings against the plaintiff and dismissed the suit. In view of this position no interference by this Court is called for and as such the appeal stands dismissed.

. Consequently the civil application no.340 of 2004 also stands dismissed.

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